Inheritance Taxation—Oklahoma. At the last session of the legislature in Oklahoma a law was passed imposing a tax on gifts and inheritances. The practice of imposing such taxes is not new and at the present time is widespread and quite general throughout the United States and Europe. The Oklahoma law, somewhat detailed and minute, is in some respects the embodiment of the laws and practices of other States and in some respects is entirely new.

The law is to apply to all transfers of property, real, personal, and mixed; to all interests in property and to all incomes in trust or otherwise; to all persons, associations or corporations, except corporations of the State organized solely for religious, charitable or educational purposes, but in the case of such corporations the property transferred must be used exclusively for the purposes of the organization. The law is to apply to the property of residents of the State and to the property of non-residents when such property is located within the State; it covers all transfers of property by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor or intended to take effect at or after such death. The tax is to be imposed when any such person or corporation becomes beneficially entitled in possession of expectancy to the property or the income and is to be upon the clear market value of the property above the excess of the exceptions granted.

The persons entitled to any beneficial interest are divided into five classes, and rates known as primary rates are made applicable to a certain amount of property inherited by each member of the class.

Class one includes the husband, wife, lineal issue, lineal ancestor or any child adopted in conformity with the laws of the State if adopted at or before it has reached its fifteenth year. Property to the clear value of $10,000 transferred to the widow of the decedent and property to the clear value of $5000 transferred to each of the other persons mentioned under class one is to be exempt. After this exemption is deducted a primary rate of 1 per cent is to be imposed upon the next $5000 and upon all in excess of this $5000 the primary rate is to be increased one one-hundred twenty-fifth of 1 per cent for every $100 increase in the valuation of the excess.

Class two includes the brother or sister, the descendant of a brother or sister, a wife or widow of a son or the husband of a daughter of the decedent. Property to the clear value of $500 transferred to each of the persons mentioned in this class is to be exempt, but after this deduction is made a primary rate of 1½ per cent is levied upon the next

succeeding $2000 worth of property inherited. Upon all in excess of this $2000 the primary rate is to be increased one-fiftieth of 1 per cent for every $100 increase in the valuation of the excess.

Class three includes the brother or sister of the father or mother or a descendant of the brother or sister of the father or mother of the decedent. Property to the clear value of $250 transferred to each of the persons mentioned in this class is to be exempt, but after this deduction is made a primary rate of 3 per cent is levied upon the next succeeding $2000 worth of property inherited. Upon all in excess of this $2000 the primary rate is to be increased one-fiftieth of 1 per cent for every $100 increase in valuation of the excess.

Class four includes the brother or sister of the grandfather or grandmother or a descendant of the brother or sister of the grandfather or grandmother of the decedent. Property of the clear value of $150 transferred to each of the persons mentioned in this class is to be exempt, but after this deduction is made a primary rate of 4 per cent is levied upon the next succeeding $500. Upon all in excess of this amount the primary rate is to be increased one-tenth of 1 per cent for every $100 increase in valuation of this excess.

Class five includes all persons inheriting property who are in any other degree of collateral consanguinity than mentioned in the classes given above, a stranger in blood to the decedent, a body politic or a corporation. Property to the clear value of $100 for each such person or corporation is to be exempt from the operation of the law and after this deduction is made a primary rate of 5 per cent is levied upon the next $500 and upon all in excess of this amount the primary rate is to be increased one-tenth of 1 per cent for each $100 increase in the valuation of the excess.

This tax is to remain a lien upon the property transferred until paid and the person to whom the property is transferred, the administrator, the executor or the trustee of every estate transferred is to be personally liable for the tax until its payment.

The amount of the tax is first to be paid to the treasurer of the county in which the county court having jurisdiction is situated and when it is paid the treasurer must make out duplicate receipts, one for the administrator, executor or trustee, and one for the State auditor. In order to check up the whole account the auditor charges the treasurer with the amount of the tax, countersigns the receipt, stamps it with

the official seal and returns it to the executor, administrator or trustee, a proof that the tax has been paid.

If the tax is paid within one year, a discount of 5 per cent is to be allowed and deducted and if the tax is not paid within eighteen months, interest is to be charged and collected at the rate of 10 per cent per annum from the time the tax accrues. The interest rule does not apply if claims have been made which necessitate litigation or other unavoidable causes of delay prevent the settlement of the estate. Every executor, administrator or trustee has the same power to sell the property of the decedent to pay the tax as he has to sell property to pay the debts of the testator or intestate.

It is the duty of the administrator or trustee having the property or legacy in charge to deduct the tax and pay it to the county treasurer; if the legacy or property is not in money, he must levy the tax upon the appraised value and collect it from the persons entitled to the inheritance. And moreover, it is contrary to law for the administrator to deliver any specific legacy or property subject to the tax until he has collected the amount specified. In certain cases where the property is not received at once, the beneficiary or any executor, administrator or trustee may elect to postpone the payment of the tax until the persons beneficially interested have come into the actual possession or enjoyment of it, but if this is done the person or persons who choose to defer the payment must give a bond to the State amounting to three times the value of the tax.

To insure the payment of the tax on property situated or located within the State when the decedent was a non-resident, the law provides that the foreign executor administrator, or trustee must pay the tax to the treasurer of the proper county or to the state auditor and that institutions like deposit companies and banks and in fact any person or persons holding securities or assets may not deliver or transfer them to the executor, administrator or legal representative of the non-resident decedent unless notice of the time and place of the intended transfer has been served upon the state auditor at least ten days prior to the actual transfer. Such institutions or persons cannot legally deliver or transfer any securities or assets of the estate of a non-resident decedent without retaining a sufficient amount to pay any taxes that may be assessed under the law. Failure to comply with this provision renders the institution or person liable to the payment of the tax due upon the securities or assets.

In order to arrive at a fair valuation of the property the county

court must, whenever application is made by any interested party, appoint a competent person as appraiser to fix the fair market value of the property transferred, the valuation to be immediately upon the transfer or as soon thereafter as practicable. In making this valuation the appraiser is given the power to issue subpœnas, to compel the attendance of witnesses, and to have them give testimony under oath as to the value of the property in question. If the state auditor or anyone is dissatisfied with the appraisement and determination, he may apply for a re-hearing, this re-hearing to be upon the records, proceedings and proofs and a new trial is not to be granted unless specially ordered by the county court.

For the period of a year after the value of the estate has been determined and the tax levied an opportunity is still left to the state auditor to see that the state has received a just amount of the tax. If the state auditor believes that the final appraisal, assessment and determination has been fraudulently or erroneously made, he may make application to the judge of the district court and the judge may then appoint a competent person to re-appraise the estate. The report of the new appraiser is filed in the district court and the determination and assessment of that court is to supersede the determination and assessment of the county court.

Still another safeguard is added to insure the collection of the tax. If the treasurer of any county has reason to believe that any tax is due and unpaid he must notify the county attorney and it then becomes the duty of the county attorney, if he has cause to believe that such tax is due and unpaid, to apply to the county court for a citation citing the persons liable to pay such tax to appear before the court and show cause why such taxes should not be paid.

All taxes levied and collected under this act, less any expenses of collecting, are to be paid into the treasury of the State, one-half of the amount to be use for the public schools of the State and one-half to be applicable to the expenses of the State government and to such other purposes as the legislature may by law direct.

(Ch. 81, art. xi, Laws of 1907–1908.)

ROBERT ARGYLL CAMPBELL.

Mortgage Taxation. Two States, Maryland and Louisiana, have again considered the question of mortgage taxation. As yet Maryland has not solved the question; the system seems well established but the counties in which the law is to apply are still in doubt. The